

# Coversheet: Improvements to the regulatory framework for local elections

Advising agencies	The Department of Internal Affairs
Decision sought	<p>Agreement to issue drafting instructions for legislative changes to:</p> <ol style="list-style-type: none"> <li>1 the Local Electoral Act 2001 to:               <ol style="list-style-type: none"> <li>1.1 enable regulations to be promulgated under the Local Electoral Regulations 2001 authorising a local authority to adopt a voting method for a specified subset of electors at an election, for the purposes of trialling a voting method;</li> </ol> </li> <li>2 the Electoral Act 1993 to:               <ol style="list-style-type: none"> <li>2.1 allow local authorities to access date of birth information from the enrolment database held by the Electoral Commission, for the purposes of conducting an election (including a minor consequential amendment to the Local Electoral Act 2001, if required); and</li> <li>2.2 clarify that local authorities may access age group information for individual electors for the purpose of analysing participation in local elections.</li> </ol> </li> </ol>
Proposing Ministers	Minister of Local Government

## Summary: Problem and Proposed Approach

<p><b>Problem Definition</b></p> <p><b>What problem or opportunity does this proposal seek to address? Why is Government intervention required?</b></p>
<p>A current programme of work to modernise voting in local elections has identified a number of barriers to trialling and evaluating new and existing voting methods in those elections. This proposal seeks to remove these legislative barriers to enable a more efficient and effective trial and evaluation of future voting methods than is currently possible.</p> <p>In particular, the limitations of the current statutory framework mean that:</p> <ol style="list-style-type: none"> <li>1. voting methods cannot be trialled with subsets<sup>1</sup> of electors within a local authority district;</li> <li>2. local authorities cannot access date of birth information from the enrolment database to administer elections (for example, to authenticate electors’ identities); and</li> <li>3. there is uncertainty as to whether local authorities could access age group information about electors (for analysis of voter participation by age group).</li> </ol>

<sup>1</sup> The subsets could be based on a geographic area such as a ward, or a category of voters such as remote or self-identified disabled voters.

These problems have wider application than the development or assessment of any particular voting method.

This RIA has broken the analysis of these problems into three areas:

1. Enabling a 'partial' trial;
2. Enabling local authorities to access date of birth information from the enrolment database held by the Electoral Commission for the purpose of conducting an election; and
3. Enabling local authorities to access age group information from the enrolment database for the purpose of analysing participation in local elections.

## Proposed Approach

### How will Government intervention work to bring about the desired change? How is this the best option?

#### *Enabling a 'partial' trial*

The proposed approach is to amend the Local Electoral Act 2001 to allow regulations to be promulgated under the Local Electoral Regulations 2001 to authorise a voting method to be trialled with a subset of electors within a local authority's area. This will give local and central government partners the flexibility to design a trial of a voting method (or combination of methods) that makes the best use of available resources and mitigates the risks which would otherwise be posed by trialling the voting method over a local authority area.

Subsequent regulations are required to authorise a voting method to be trialled over particular subsets of electors within a local election. The detail of these regulations will be assessed in separate Regulatory Impact Analysis reports.

#### *Enabling local authorities to access date of birth information from the enrolment database for the purpose of conducting an election*

The proposal is to amend the Electoral Act 1993, to enable local authorities to access date of birth information from the Electoral Commission's enrolment database when this information is necessary to conduct an election (for example, as an additional piece of information to authenticate electors). This proposal utilises information already held by the Electoral Commission about each elector. It would avoid the need for additional processes, cost and logistics that would otherwise be necessary for additional identity authentication processes for electors to securely access a voting system. There are some limitations on the effectiveness of date of birth as an authentication factor which are outlined in the options analysis in section 3.1.

A minor amendment may also be required to the Local Electoral Act 2001 to make information sharing provisions consistent.

#### *Enabling local authorities to access age group information from the enrolment database for the purpose of analysing participation in local elections*

A further amendment to the Electoral Act 1993, is proposed to enable local authorities to analyse participation in local elections using statistically anonymised age-group (in the form of a 5 year bracket) information provided by the Electoral Commission. This proposal is efficient as it utilises information already held by the Electoral Commission to improve

the analysis and knowledge base of local electoral participation. This will be valuable to the local government sector, central government and the academic community.

## Section B: Summary Impacts: Benefits and costs

### Who are the main expected beneficiaries and what is the nature of the expected benefit?

#### *Enabling a 'partial' trial*

The local government sector will benefit from the suggested legislative changes to allow partial trials of voting methods and enable online voting. Allowing a partial trial means the local government sector will have the flexibility to design trials that make the best use of available resources and minimise risks which may be posed by trialling a voting method over all electors in a large local authority area.

The development of proposed voting methods is enhanced through increased access to more local government capability and capacity when larger councils (with significant expertise and resourcing) can participate in partial trials, without the additional risk of a voting method failing across an entire territory.

The public will also benefit from the ability for voting methods to be trialled over subsets of voters due to the reduced risk to the integrity of the local elections concerned and potentially lower cost than a full trial.

#### *Enabling local authorities to access date of birth information from the enrolment database for the purpose of conducting an election*

The local government sector will benefit from having access to electors' date of birth information as this will reduce the cost of administering any voting method that may require additional elector authentication.

Local government, central government and the public will benefit from having greater public confidence in the integrity of a voting method due to the additional level of authentication of voters.

#### *Enabling local authorities to access age group information from the enrolment database for the purpose of analysing participation in local elections*

Access to this data will improve the scope and quality of analysis of participation. The analysis will be valuable to the local government sector, central government and the academic community. Amongst other benefits, this may enable better targeting of programmes to promote participation.

In the particular context of trialling voting methods, access to the data will improve the quality of post-trial evaluation. This will benefit local and central government by informing understanding of the uptake and future improvements to the voting method in question.

There may be efficiencies in clarifying this section of the Electoral Act 1993 in that it will minimise the need for the Electoral Commission to make a case by case determination on whether local authorities meet the requirements to access this information.

## Where do the costs fall?

### *Enabling a 'partial' trial*

There are no particular costs associated with amending legislation and promulgating enabling regulations for a trial of a voting method to be over only a subset of a local authority's electors other than the departmental costs of undertaking legislative change.

### *Enabling local authorities to access date of birth information from the enrolment database for the purpose of conducting an election*

There will be some administrative costs for the Electoral Commission in providing date of birth information to local authorities. However, this is expected to be minor in the context of other information transfers occurring at the same time. One off system changes and testing to enable this field to be extracted in providing date of birth information to local authorities is estimated at \$7,500 - \$10,000.

The Electoral Commission will however have to update the disclosure statement on their registration forms at a cost; the Electoral Commission has estimated this at \$55,000.<sup>2</sup>

### *Enabling local authorities to access age group information from the enrolment database for the purpose of analysing participation in local elections*

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## What are the likely risks and unintended impacts, how significant are they and how will they be minimised or mitigated?

### *Enabling a 'partial' trial*

There are no specific risks associated with a legislative change to allow regulations to be made enabling a partial trial of a voting method. Any risks associated with the regulations themselves will be assessed as part of the policy development of those regulations.

### *Enabling local authorities to access date of birth information from the enrolment database for the purpose of conducting an election*

There may be public reservations about sharing date of birth information with local authorities. This would need to be mitigated through clear regulations on how the information must be protected (including how and to whom it can be transferred and stored) and the uses of information (i.e. for conducting an election only). The Department has completed a Privacy Impact Analysis for this change. We consider that applying an updated Privacy Impact Assessment at key stages in the design process of any trial of a voting method that utilises such information will help identify and mitigate privacy concerns.

<sup>2</sup> The cost of a print run of the application form depends on the number of forms printed. The estimate of the costs of a print run of 500,000 forms and guidance, including the re-set up of the artwork and proofs, is \$55,000.

*Enabling local authorities to access age group information from the enrolment database for the purpose of analysing participation in local elections*

There are no particular risks associated with allowing access to this information as it is in an aggregated “age-group” form. Under the Electoral Act 1993, this information can already be made available “for the purposes of research conducted by that person on a topic that relates to a scientific matter,,, [or]... human health,” and the extension of this to explicitly include local authorities conducting electoral participation evaluation is not expected to carry any greater risk. This assessment is confirmed by the Department’s Privacy Threshold Assessment finding that there are no substantial privacy risks associated with the change.

**Identify any significant incompatibility with the Government’s ‘Expectations for the design of regulatory systems’.**

None identified.

## Section C: Evidence certainty and quality assurance

### Agency rating of evidence certainty?

*Enabling a ‘partial’ trial*

The Department is confident that the current regulatory framework needs to be amended as outlined above in order to be able to develop enabling regulations for a trial of a voting method over part of a local authority’s area or a subset of electors. We are confident this will reduce the risks associated with trialling a voting method over a full district in specific instances, and will enable continued access to the resources of larger councils in such situations.

*Enabling local authorities to access date of birth information from the enrolment database for the purpose of conducting an election*

Given the time constraints it has not been possible to carry out research into whether an additional layer of elector authentication for a voting method would give the general public greater confidence in the integrity of the electoral system. Such analysis could however be undertaken by the central and local government partners in relation to a proposal to enable a voting method that utilised this feature.

*Enabling local authorities to access age group information from the enrolment database for the purpose of analysing participation in local elections*

The Department conducted a literary review of recent international experiences in voting. Age-demographic data is commonly used as part of evaluation methodologies to show trends over time and to evaluate effectiveness of and participation in a voting method.

### Quality Assurance Reviewing Agency:

Department of Internal Affairs

### Quality Assurance Assessment:

The panel considers that the information and analysis summarised in the RIA *meets* the quality assurance criteria to the extent possible.

#### Reviewer Comments and Recommendations:

The RIA includes many of the substantive elements of well-developed options, with much of the required information to carry out balanced analysis. The problem definition and the objectives are clear. The RIS is clear and well-structured. Finally, the RIA demonstrates appropriate consultation.

# Impact Statement: Improvements to the regulatory framework for local elections

## Section 1: General information

#### Purpose

The Department of Internal Affairs is solely responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing key policy decisions to be taken by Cabinet.

#### Key Limitations or Constraints on Analysis

The need for these proposed amendments has been identified in relation to a possible trial of online voting as part of the Modernising Voting Review.

The Minister of Local Government has agreed with local sector representatives that work towards a trial of online voting will be undertaken in parallel to the Modernising Voting Review. This will enable lessons learnt during any such trials to be fed back into the Modernising Voting Review.

In order to move towards the first trial of online voting as soon as possible the Minister of Local Government has agreed to prioritise legislative amendments, and promulgation of enabling regulations by the end of 2018 (to give the sector sufficient confidence to proceed). The legislative amendments need to be enacted before such regulations can be promulgated. This places a tight time constraint on the analysis and implementation of the changes proposed in this document.

#### Responsible Manager (signature and date):

Raj Krishnan

General Manager Policy

Policy, Regulation and Communities

Department of Internal Affairs

# Section 2: Problem definition and objectives

## 2.1 What is the context within which action is proposed?

Local Government New Zealand (LGNZ), the Society of Local Government Managers (SOLGM) and the Minister of Local Government have agreed (subject to Cabinet agreement) to a partnership project to modernise voting in local elections. The programme will involve two projects which will run concurrently:

- online voting pilot; and
- general review of the Local Electoral Act 2001 and the Local Electoral Regulations 2001 (any legislative changes to be enacted to apply to the 2022 elections) with a view to modernising voting in local elections.

While the need for these proposed amendments has been identified in relation to a possible trial of online voting, the proposed changes will be useful in relation to the development and trialling of a range of voting methods, or variations of voting methods, in a variety of situations in the future. The proposals are designed to be of general application to maximise benefits over time.

For any trial of online voting, enabling regulations will be needed to authorise online voting as a voting method for the participating councils (and subsets of electors). A separate RIA process on the specific proposal will be undertaken at that point.

## 2.2 What regulatory system or systems are already in place?

### *Enabling a 'partial' trial*

Under the Local Electoral Act 2001 and the Local Electoral Regulations 2001, territorial authorities are responsible for conducting local elections in their districts, including elections to regional councils, district health boards (DHBs), local boards, community boards, and licensing trusts within that district.

Territorial authorities may adopt any authorised voting method for their elections (see section 139 below), and that decision applies also to other bodies' elections conducted in conjunction with the territorial authority district. Voting methods are authorised through regulations, and currently booth and postal voting are the only authorised voting methods under the Local Electoral Regulations 2001. In addition to this difficulty, arguably, the Local Electoral Act 2001 does not allow for a different voting method to be authorised or adopted for a subset of electors in relation to a particular election within a territory.

While the Local Electoral Act 2001 specifies that the "voting method" includes "any form of electronic voting" (section 5). Section 139(1)(c) of the Act provides that use of voting methods either generally in elections, or specifically in an election, is to be authorised by regulations. Section 139(2) of the Act provides that such regulations cannot be made "...unless the Minister [of Local Government] advises that he or she is satisfied that the voting method to be authorised for use will be able to operate in a manner consistent with the principles described in section 4 [of the Act]." The Minister must consult relevant persons and bodies before providing that advice.

*Enabling local authorities to access date of birth information from the enrolment database for the purpose of conducting an election*

The Electoral Act 1993 provides for the Electoral Commission to supply information from the electoral roll to local authorities for the purpose of administering an election.

Under Section 113(1) of the Electoral Act if an electoral official of a local authority (as defined in Section 5 of the Local Electoral Act 2001) wishes to obtain specified information for the purposes of any election, by-election, or poll that is required by or under any Act, the electoral official is entitled to obtain from the Electoral Commission a computer-compiled list or electronic storage medium containing that information.

Section 113(10) sets out what information is supplied to local authorities and this does not include date of birth information.

*Enabling local authorities to access age group information from the enrolment database for the purpose of analysing participation in local elections*

Section 112 of the Electoral Act 1993 authorises the Electoral Commission to supply a list of electors who fall within particular age groups for research purposes (relating to a scientific or human health matter). We understand that the Electoral Commission considers such requests on a case by case basis, and have not yet had any requests originating from local authorities. The Commission has advised that in its opinion, while the scope of the provision is uncertain, it is unlikely to cover the scenario of a local authority seeking the information in order to analyse electoral participation for its own information.

## **2.3 What is the policy problem or opportunity?**

*Enabling a 'partial' trial*

The Local Electoral Act 2001 authorises territorial authorities<sup>3</sup> to adopt any sanctioned voting method for elections in their district, and enables regulations to be made authorising the use of a new voting method at specified elections. However, neither the regulation making provisions nor the territorial authority's discretion allow the adoption of different voting methods for different subsets of electors within a district. In relation to the current programme to modernise local elections, and in the future, there may be a number of times when it is useful to trial a voting method or combination of voting methods before they are made nationally available for use in local elections.

The participation of larger councils, such as Auckland Council, in any proposed trial is considered essential by the local government sector representatives, for cost and capability reasons. However, a full trial across the Auckland Council district would involve approximately one third of registered electors and if a fundamental problem occurred, the logistics involved in re-running the election would be significant. It is therefore considered desirable that, when appropriate, councils be able to be authorised to conduct trials within specified subdivisions (wards and/or local board areas) or specified groups of electors (remote or disabled voters). This would limit the actual and perceived risks if a trial were to fail or not work as intended.

The current proposal is to amend the Local Electoral Act 2001 to allow regulations to authorise the adoption of a voting method for a specified subset of electors at an election, for the purposes of trialling that voting method, and to authorise local authorities to adopt that

<sup>3</sup> Including unitary authorities like Auckland Council.



voting method accordingly. These regulations would be subject to their own analysis and advice (RIS) before recommending their promulgation to Cabinet.

*Enabling local authorities to access date of birth information from the enrolment database for the purpose of conducting an election*

Local authorities are provided with electoral roll information from the Electoral Commission for the purposes of administering their elections. To date, electors' date of birth information has not been necessary to enable local authorities to administer the elections and the Electoral Act 1993 does not currently authorise the Electoral Commission to provide this to local authorities as part of the information provided to administer local elections.

As part of work on the option of an online voting method, it has been identified that having the option of an additional piece of information to authenticate electors as a way of encouraging public confidence in the integrity of a new voting method, particularly during a trial.

Date of birth information has been identified as the only identity information held by both the Electoral Commission and the elector that is not required to be included on the published roll or used for postal delivery. Using unpublished information makes it more secure and reliable for authentication purposes. The issue has been identified in the context of current proposals for an online voting trial but potentially has wider application for identity authentication for other voting methods.

*Enabling local authorities to access age group information from the enrolment database for the purpose of analysing participation in local elections*

There is limited information on voter participation at local elections. As part of robust management of a trial of new voting methods, effective monitoring and evaluation will be crucial. This analysis should include information about voting behaviour categorised by age groups. For this to be possible the local authorities need access to age group information held by the Electoral Commission, and to be able to use this for the purposes of analysing participation. The Commission's opinion is that there is some uncertainty about the scope of the authority in section 112 of the Electoral Act 1993 to extend to the scenario of a local authority seeking the information in order to analyse electoral participation.

In the context of a trial it is expected requests for this information will come from all participating councils, the Electoral Commission would have to evaluate each local authority's request for this information individually.

## **2.4 Are there any constraints on the scope for decision making?**

See the comments above under "Key Limitations or Constraints on Analysis."

No other constraints on the scope for decision making have been identified in relation to the legislative changes proposed in this RIS.

## **2.5 What do stakeholders think?**

*Enabling a 'partial' trial*

Local Government New Zealand (LGNZ) and the New Zealand Society of Local Government Managers (SOLGM) see Auckland Council's participation as crucial to the success of the design and implementation of the trial of online voting due to the expertise and resources the Council can contribute to the project. They support enabling a 'partial' trial as a way to

balance risk versus benefit in the case of large councils.

The Ministry of Health has been consulted (as DHB elections will be included in any trial area) and they are comfortable with the partial trial proposal.

*Enabling local authorities to access date of birth information from the enrolment database for the purpose of conducting an election*

LGNZ and SOLGM see this change as important for building public and central government confidence in the integrity of an online voting trial system. Auckland Council representatives (and previous Ministers) have strongly advocated for an additional authentication factor.

The Ministry of Justice and the Electoral Commission did not have any particular objection to this proposal but are interested to ensure adequate Privacy Impact Assessment is conducted. The Electoral Commission noted that they would be concerned if sharing date of birth information had the effect of deterring the public from enrolling or keeping their enrolment details up to date.

*Enabling local authorities to access age group information from the enrolment database for the purpose of analysing participation in local elections*

LGNZ and SOLGM see this change as critical to enable effective evaluation of the online voting trial and local electoral participation more generally.

The Ministry of Justice and the Electoral Commission did not have any particular objection to this proposal but are interested to ensure adequate Privacy Impact Assessment is conducted. The Department's Privacy Threshold analysis has however identified there is no need for a full impact assessment as the information is aggregated by the age group rather than date of birth. This was discussed with the Electoral Commission.

The Electoral Commission noted that currently academics can request age demographic information for the purposes of scientific research, as is allowed under the Electoral Act 1993. However, they noted that the legislative provisions for scientific research<sup>4</sup> access are not clear, and would not extend to internal performance evaluation purposes. They indicated that a clear provision stating who can access this information, in what form and for what purpose would be beneficial.

## Section 3: Options identification

### 3.1 What options are available to address the problem?

#### *Enabling a 'partial' trial*

*Option 1: Confirm in the primary legislation that regulations can be made enabling local authorities to offer a voting method to a specified subset of voters for the purposes of a trial of that voting method (preferred option)*

This change would mean that regulations could be promulgated for a trial of a voting method to be offered to a specified subset of voters within a local authority's area. The subsets of voters that may be considered are:

- geographical subsets (e.g, all electors within one or more local board areas or wards and/or overseas electors); and
- user category subsets (e.g, disabled or remote electors).

<sup>4</sup> Section 112 of the Electoral Act 1993

This is the best option to give the flexibility to mitigate the risks associated with trialling a voting method over a large local authority electoral population while obtaining the resource and capability benefits of including a large local authority in a trial.

The New Zealand general elections offer electronic access and submission of voting papers for overseas voters.

This approach has been successfully used in the last three New South Wales state government elections where online voting was offered only to remote and disabled voters, and others who had difficulty voting through conventional means (for example, those with literacy difficulties).

Further, this option provides an opportunity to trial the effectiveness of a voting method that is only offered to a subset of electors. It is possible that in the future local or central government may want to offer a voting method to some voters or electors, even if nationwide rollout does not proceed (similar to the New South Wales approach). A partial trial would provide useful evaluative information about such an approach.

***Option 2: Confirm in the primary legislation that regulations can be made enabling local authorities to offer a voting method to a specified subset of voters***

This option would be the same as Option 1 above, however, it would allow for a voting method to be offered to a subset of voters in any election, rather than just for the purpose of a trial.

The benefits of offering this outside of a trial are weaker as they are no longer aimed at limiting risk on a trial basis and would not outweigh the risks of distorting (or being seen to distort) elections by offering potentially 'unequal' voting methods indefinitely.

***Option 3: Status quo – regulations can only be made to authorise voting method trials over a local authority's full area***

Only being able to trial a voting method over a full local authority's area puts constraints on the trial design, making it difficult to mitigate the risks posed by trialling a method with a large local authority. This may rule large local authorities out of participating in a trial, which would preclude access to their expertise and resources.

If a 'partial' trial was not an option, a trial could still proceed. However, the proposed legislative amendment provides the flexibility for better trial design and access to larger councils' resources and experience for a more successful trial.

In the context of online voting, for example, the Department's view is that the voting method should not be trialled on all Auckland Council electors because of the large number of votes that would be affected by a failure in the online voting system, and the logistics involved in re-running the election if there was a significant failure. The local government sector representatives' view is that Auckland Council's participation in a trial is critical to its success.

***Enabling local authorities to access date of birth information from the enrolment database for the purpose of conducting an election***

***Option 1: Require the Electoral Commission to provide date of birth information to local authorities if it is required for the purpose of conducting an election (preferred option)***

This option would allow local authorities access to date of birth information from the Electoral Commission to use in administering an election, for example as an individual identifier to

authenticate an elector to vote online. Date of birth is a piece of information unique to an elector that is currently collected by the Electoral Commission and is not also printed on the voting papers (such as name and address).

This option would utilise information already held by both the Electoral Commission and the elector when the administration of an election required an additional level of authentication to authenticate the elector (for example, to log into an online voting system). This option has lower associated costs than other authentication options such as pre-registration or two-step mail-outs.

There are some risks with using this option as a means of authentication. Date of birth information may be known to family members and friends, available from other sources online, and it is included in the information that is mailed to electors as part of the update campaign run prior to local and general elections. However, this method is the best option identified to date to provide an additional piece of information to authenticate an elector without requiring electors to pre-register (which could be a barrier to participating in the election).

This option would require more compliance from a privacy perspective, as updated privacy impact analysis would need to be conducted when designing any voting method's system that would use or store this information, and the enabling regulations for that voting method.

#### ***Option 2: Status quo - No legislative change***

This option would mean that local authorities would require future voting methods in local authority elections to be designed in such a way as to have single level authentication of electors (e.g. the elector is sent an access code with their voting papers) or to consider non-regulatory options for an additional level of authentication.

While single level authentication may be sufficient (and equivalent to the current postal method), additional authentication was a requirement of the previous work towards a 2016 trial of online voting. Consultation with the local government sector suggested that it may be in the interest of local authorities to provide an additional level of authentication, particularly in the context of a trial, to give central government, local government and the general public greater confidence in the integrity of the voting system.

The best option for a non-regulatory additional level of authentication would be to provide electors with the information required to access the voting mechanism in two individually posted sets of papers.<sup>5</sup> This approach would significantly increase the cost of conducting the election. It would also be vulnerable to the decline of the postal services and would not significantly improve authentication or security as the mail-outs are both sent to the same address.<sup>6</sup>

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<sup>5</sup> Electors are not required to provide email addresses as part of registration with the Electoral Commission so it is not feasible at this time to provide an option for emailing out a second level of authentication.

<sup>6</sup> This is a current driver for a shift to a new voting method and postal services are expected (by local government representatives) to be unsustainable method of distributing and returning voting papers by 2022.

***Enabling local authorities to access age group information from the enrolment database for the purpose of analysing participation in local elections***

***Option 1: Clarifying, for the avoidance of doubt, that the Electoral Commission can supply age group information to local authorities for the purpose of analysing participation in local elections (preferred option)***

Following an election, councils would be able to analyse voter participation using age group information. This analysis would contribute to building a knowledge base of voter participation by age bracket, which would provide valuable information for local authorities to evaluate trends in participation. This analysis may be valuable to undertake targeted campaigns at increasing participation of specific age groups if they were identified as declining, or to understand commonalities across age groups once trends were established.

This data would be able to be provided, on request, regardless of whether there was a trial of a voting method or not. However, for a trial of a voting method this would provide insights into the up-take of the voting method by age group to assist in evaluating the success, or otherwise, of the trial.

Providing this information in 5 year age brackets, rather than specific date of birth, reduces perceived risk or any concern that this information may identify individual voter's behaviour. Consultation on this option is noted above in relation to stakeholders' views.

***Option 2: Enable the Electoral Commission to provide date of birth information to local authorities for the purpose of analysing participation in local elections***

This option has the same advantages as above, however this option comes with increased risk that the change will be perceived by the public as encroaching into elector's privacy, or providing more private information than is required for the purpose. This would increase the privacy impact of the option and would require more in depth impact analysis and mitigation.

***Option 3: Status quo - No legislative change***

There is limited local electoral participation information available currently. This does not facilitate the creation of baseline information or future analysis into trends in participation.

For a trial of new voting methods, local authorities would be limited in the data they could use to evaluate effectiveness of any trials and trends over time.<sup>7</sup> The academic community may be able to carry out some evaluative work for the purposes of published research.<sup>8</sup> However, trial councils themselves would not be able to access the same data for their own evaluation purposes.

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<sup>7</sup> In the future (as a baseline will need to be established).

<sup>8</sup> This would be subject to the Electoral Commission's interpretation of the Local Electoral Act 1993 and the researcher's request.

### 3.2 What criteria, in addition to monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?

- **Trust and confidence** – the option aims to maintain trust and confidence in electoral processes, the electoral result and handling of private information;
- **Effective** – the option achieves the desired outcomes and addresses the problems identified;
- **Clear and transparent** – people affected can understand what is required of them and the basis of decisions;
- **Efficient** - compliance costs are minimised and are no more than necessary to achieve the outcomes sought; and
- **Equitable** - the proposed option is fair and consistently applied to electors.<sup>9</sup>

### 3.3 What other options have been ruled out of scope, or not considered, and why?

Local government sector representatives discussed options for authenticating voter identity in the context of an online voting trial with Ministers in the previous administration. During these discussions it was agreed that pre-registration or use of RealMe would not be considered for the purposes of a trial because this would create an additional barrier to participation that would detract from the objectives of a trial. While both options would need to be considered in the design of any voting method, the proposed amendment will allow the use of date of birth information to be considered alongside them.

The local government sector representatives and the Department continue to be of the view that pre-registration or RealMe are not appropriate for a trial. However, the Department is keeping up with proposed changes to RealMe authentication options and this method may be viable for online voting in the future.

## Section 4: Impact Analysis

### Enabling a 'partial' trial

	Option 1 (partial trial of voting methods)	Option 2 (partial use of voting methods generally)	Option 3: Status quo
Trust and confidence	++	-	0
Effective	++	++	0
Clear and transparent	++	-	0
Efficient	++	++	0
Equitable	-	--	0
Overall assessment	7	0	0

<sup>9</sup> These criteria are based on principles in s4 of the Local Electoral Act 2001.

**Enabling local authorities to access date of birth information from the enrolment database for the purpose of conducting an election**

	Option 1 (enable DOB information transfer for the purpose of administering a local election)	Option 2: Status quo
Trust and confidence	++	0
Effective	++	0
Clear and transparent	+	0
Efficient	++	0
Equitable	+	0
Overall assessment	8	0

**Enabling local authorities to access age group information from the enrolment database for the purpose of analysing participation in local elections**

	Option 1 (age group information for analysis)	Option 2 (DOB information for analysis)	Option 3: Status quo
Trust and confidence	0	-	0
Effective	++	++	0
Clear and transparent	++	+	0
Efficient	++	++	0
Equitable	0	0	0
Overall assessment	6	4	0

**Key:**

- ++ much better than doing nothing/the status quo
- + better than doing nothing/the status quo
- 0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo
- much worse than doing nothing/the status quo

## Section 5: Conclusions

### 5.1 What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

**Enabling a 'partial' trial**

*Option 1: Confirm in the primary legislation that regulations can be made enabling local authorities to provide a voting method to a subset of voters for the purposes of a trial of that voting method*

On balance this option will reassure the public that the risks of a voting method are being managed if the system were to fail in some way. This option will help local authorities to work towards a more sustainable approach to administering local elections in the light of

the declining postal system, without introducing unnecessary risk to public trust and confidence in the election or results.

**Enabling local authorities to access date of birth information from the enrolment database for the purpose of conducting an election**

**Option 1: Enable the Electoral Commission to provide date of birth information to local authorities if it is required for the purpose of conducting an election**

This option would enable local authorities to administer elections with voting methods that require elector authentication without significantly increasing implementation costs.

**Enabling local authorities to access age group information from the enrolment database for the purpose of analysing participation in local elections**

**Clarifying, for the avoidance of doubt, that the Electoral Commission can supply age group information to local authorities for the purpose of analysing participation in local elections**

This option would efficiently provide for local authorities to be able to analyse participation in local elections to build a knowledge base that will contribute to understanding more detail about trends in local electoral participation. This data will also be useful to evaluate the uptake of any voting methods provided/trialled in future by age group.

This option also will remove inefficiencies and potential inconsistencies in the Electoral Commission having to assess local authority’s requests for this information on a case by case basis.

**5.2 Summary table of costs and benefits of the preferred approach**

Affected parties	Comment	Impact	Evidence certainty
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**Enabling a ‘partial’ trial**

Additional costs of proposed approach, compared to taking no action			
Regulated parties (local authorities)		Nil	High
Regulators (DIA)	Policy and legislative process support	In-kind	High
Wider government	None	Nil	High
Other parties (SOLGM, LGNZ)	None	Nil	High
<b>Total Monetised Cost</b>			High
<b>Non-monetised costs</b>		Low	High



<b>Expected benefits of proposed approach, compared to taking no action</b>			
Regulated parties	Progress towards a viable new voting method	Medium	Medium
Regulators	Future-proofed legislation allowing for greater flexibility in design of trials of voting methods	Low	High
Wider government	None	-	High
Other parties	Progress towards a viable voting method trial	Medium	Medium
<b>Total Monetised Benefit</b>	-	-	-
<b>Non-monetised benefits</b>		Medium	

***Enabling local authorities to access date of birth information from the enrolment database for the purpose of conducting an election***

<b>Additional costs of proposed approach, compared to taking no action</b>			
Regulated parties (local authorities)	None identified at this stage	Nil	Medium
Regulators (DIA and Ministry of Justice)	Policy and legislative support	In-kind	High
Wider government (Electoral Commission)	Administrative costs in providing additional data	Low	Low
Wider government (Electoral Commission)	Costs of system changes and tests to providing additional data (one off)	7,500-10,000	Medium
Wider government (Electoral Commission)	Costs of updating the disclosure statement in the registration form (one off)	55,000	Medium
Other parties (LGNZ, SOLGM)	None	Nil	High
<b>Total Monetised Cost</b>		62,500-65,000	Medium
<b>Non-monetised costs</b>		Low	Low

<b>Expected benefits of proposed approach, compared to taking no action</b>			
Regulated parties	Greater range of options for authentication including lower cost option Able to choose an authentication option which would encourage public confidence in a new voting method	High	Medium
Regulators	Future-proofed legislation for future design of voting methods	Medium	Medium
Wider government	Nil	Low	Medium
Other parties	Progress towards a viable new voting method	High	Medium
<b>Total Monetised Benefit</b>	-	-	-
<b>Non-monetised benefits</b>		Medium	Medium

***Enabling local authorities to access age group information from the enrolment database for the purpose of analysing participation in local elections***

<b>Additional costs of proposed approach, compared to taking no action</b>			
Regulated parties (local authorities)	None identified	Nil	Medium
Regulators (DIA and Ministry of Justice)	Policy and legislative support	In-kind	High
Wider government (Electoral Commission)	Administrative costs in providing additional data	Low	Medium
Wider government (Electoral Commission)	Costs of system changes and tests to providing additional data which may be required, depending on the legislative mechanism for the request (one off)	7,500	Medium
Other parties (LGNZ, SOLGM)	None	Nil	High
<b>Total Monetised Cost</b>		7,500	Medium
<b>Non-monetised costs</b>		Low	Low

<b>Expected benefits of proposed approach, compared to taking no action</b>			
Regulated parties	Advances in knowledge base of participation analysis	High	Medium
Regulators	Advances in knowledge base of participation analysis at a local government level	Medium	Medium
Wider government	Advances in knowledge base of participation analysis at a local government level (may have transferable interest)	Low	Medium
Wider government (Electoral Commission)	Administrative efficiencies applying the legislation	Low	Low
Other parties	Provides for a knowledge base that researchers may be able to utilise	High	Medium
<b>Total Monetised Benefit</b>	-	-	-
<b>Non-monetised benefits</b>		Medium	Medium

### **5.3 What other impacts is this approach likely to have?**

No impacts in addition to those outlined above.

### **5.4 Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?**

Yes

## **Section 6: Implementation and operation**

### **6.1 How will the new arrangements work in practice?**

Following enactment of the legislative changes, regulations would be developed to enable a trial of a voting method using date of birth information for authentication of the elector and/or for a local authority conducting a partial trial. Further regulatory impact analysis and consultation will be conducted prior to recommending enabling regulations for any voting method that would use these changes.

The provision of date of birth information from the Electoral Commission to local authorities is expected to occur in parallel with other electoral roll information. How this information is to be managed will be worked through in parallel to Privacy Impact Analysis at key stages in the design of the voting method that requires the information to administer the election. The initial Privacy Impact Analysis and early mapping of this process is provided with this RIS.

Following an election, local authorities will be able to request elector's age group

information to analyse participation. This will be an elective undertaking by each individual council.

## **6.2 What are the implementation risks?**

Enabling partial trials introduces an additional layer of complexity to a voting system which will need to be managed through the testing and assurance processes when the method is being designed.

There are risks associated with the transfer of the date of birth information, however, this is already an existing risk for local election processes as the electors name and address is provided to local authorities. Additional risk in relation to a voting method's use of the information will need to be managed through the security measures and analysed with updated Privacy Impact Analysis at key stages in the design.

## **Section 7: Monitoring, evaluation and review**

### **7.1 How will the impact of the new arrangements be monitored?**

The legislative changes to enable regulations for a partial trial are not expected to have a particular impact other than allowing enabling regulations to be promulgated. A detailed monitoring and evaluation programme is expected to be a part of any trial of a new voting method.

There is no proposal to specifically monitor the impact of clarifying that local authorities may access age group information for the purposes of administering an election or analysing participation.

### **7.2 When and how will the new arrangements be reviewed?**

Lessons learnt from the trial of a voting method may be used to alter the design of any subsequent trials or rollout of a voting method.

As a general practice (although this did not occur for the 2016 local elections) there is a select committee inquiry after each local election to identify any issues or opportunities for improvements. Having a trial of a voting method would increase the likelihood a select committee inquiry would be undertaken.